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May 22, 2007

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF MEDICAL MARIJUANA IDENTIFICATION CARD APPLICATION FEE  
AMENDMENT TO LOS ANGELES COUNTY CODE TITLE 11 – HEALTH AND SAFETY  
(All Districts) (3 Votes)**

**IT IS RECOMMENDED THAT FOLLOWING THE PUBLIC HEARING, YOUR BOARD:**

Approve adoption of the attached ordinance amending Los Angeles County Code Title 11 – Health and Safety to provide the County of Los Angeles Department of Public Health (DPH or Department) with the flexibility to simultaneously collect each appropriate Medical Marijuana Program Identification Card application fee, first the application fee set and required by the State Department of Health Services (SDHS), and second the application fee required by the County, as permitted by statute, to cover all County costs in administering the State's Medical Marijuana Identification Card Program (Program), which may be amended from time to time, by the Board of Supervisors. Establish the County's Medical Marijuana Identification Card application fee at \$87 and \$43.50 for Medi-Cal recipients, effective 30 calendar days after passage of the ordinance.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:**

Approval of the recommended actions will permit flexibility within the County Code regarding the application fees associated with the Program in Los Angeles County, so that the total application fee (which is a combination of the applicable County fee, as approved by the Board, and the required State fee, as set by the SDHS ), can be automatically adjusted from time to time when such fee is adjusted and/or amended by the State.

Implementation of Strategic Plan Goals:

The proposed fee adjustment action will assist with fiscal responsibility to secure reimbursement for public health services.

**FISCAL IMPACT/FINANCING:**

Previously, the Department projected that the total annual County costs for the implementation of the Program in Los Angeles County to be \$261,000. State law permits the County to fully offset its costs in administering the Program locally by charging an application fee to persons seeking identification cards. State law permits the SDHS to establish a separate State imposed fee, and requires the county health officer to collect the State and County fees upon an individual's submission of a medical marijuana identification card application. The County retains its portion of the application fee, and remits the State's fee to the State.

On May 23, 2006, the Board adopted an ordinance to implement a medical marijuana identification card application fee that provided for a County application fee of \$87 and the State application fee of \$13 for a total application fee of \$100 (or a \$50 total for Medi-Cal eligible persons). Early this year, the SDHS announced it had increased its fee to \$142, effective March 1, 2007. SDHS later rescinded that increase and increased the application fee to \$66, effective April 1, 2007 (or \$33 for Medi-Cal eligible persons). As such, the County application fee of \$87 (\$43.50 for Medi-Cal recipients) and the new State application fee of \$66, the new total fee will be \$153 (\$76.50 for Medi-Cal recipients).

The attached ordinance amends the County Code to implement the new State application fee and changes the Code so that subsequent State fee changes may be automatically implemented. County application fee changes will require Board approval. The Department expects to begin accepting applications for and issuing medical marijuana identification cards starting June 1, 2007. After the Department has experienced the actual implementation of the Program, including determining the number of applications received during the first six months, the Department will review its program staffing needs, costs, estimated identification card renewal applications and application fees collected; and then return to the Board with any needed changes to the County portion of the application fee.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS:**

In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act, related to the medical use of marijuana. In 2003, the Legislature and Governor approved Senate Bill (SB) 420 (Chapter 875, Statute of 2003), which established procedures for implementation of Proposition 215. The statute requires that a county health department or a Board of Supervisor's designee will receive and process applications for medical marijuana identification cards.

In early 2005, the SDHS implemented a pilot program to provide medical marijuana identification cards in several counties. Following the *Gonzales v. Raich* opinion issued in June 2005 by the United States Supreme Court, which upheld the constitutionality of the Controlled Substances Act to federally regulate the purely intrastate distribution and use of marijuana for medical purposes, SDHS temporarily halted the medical marijuana identification card pilot program to seek guidance from the California Attorney General regarding the impact the opinion

had on the legality of the program. The California Attorney General opined that the Supreme Court decision did not invalidate either Proposition 215 or SB 420. Accordingly, SDHS notified counties that it was resuming implementation of the program.

Subsequently, San Diego County challenged the constitutionality of Proposition 215 and SB 420, including the statutory requirement that counties implement the State's Program. San Diego County sought an injunction and contended that both Proposition 215 and SB 420 were preempted by federal Controlled Substances Act., which prohibits the possession, distribution, and use of marijuana. San Diego's challenge was denied in Superior Court. San Diego County has filed its notice of appeal which is currently pending before the California Court of Appeals.


Pursuant to Government Code, Section 66018, a local agency must hold a public hearing as part of a regularly scheduled meeting of the Board of Supervisors before adopting an ordinance, resolution, or other legislative enactment adopting a new fee, and shall publish notice of the public hearing in a newspaper in accordance with Government Code, Section 6062a.

**IMPACT ON CURRENT SERVICES (OR PROJECT):**

If successful, the program will enable eligible patients whose physicians recommend medical marijuana to identify themselves to law enforcement, while allowing the Department to keep pace with any fee adjustment or amendment imposed by the State.

Respectfully submitted,



 Jonathan E. Fielding, M.D., M.P.H.  
Director and Health Officer

JEF:  
05/10/07  
BL#00152

Attachment (1)

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors

## ANALYSIS

This ordinance amends Title 11 - Health and Safety of the Los Angeles County Code, to permit the County health officer to collect the specific application fee required by the California Department of Health Services from persons seeking Medical Marijuana Program identification cards and simultaneously collect an application fee as approved by the Board of Supervisors to cover all County costs in administering the State's Medical Marijuana Program.

RAYMOND G. FORTNER, JR.  
County Counsel

By   
ROBERT E. RAGLAND  
Senior Deputy County Counsel  
Health Services Division

RER:ec

05/03/07 (Requested)

05/04/07 (Revised)

HOA.441990.1

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Title 11 - Health and Safety of the Los Angeles County Code, to permit the county health officer to collect an application fee as required by the California Department of Health Services and simultaneously collect an application fee as approved by the Board of Supervisors from individuals seeking to obtain a Medical Marijuana Program identification card.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 11.66.020 is hereby amended to read as follows:

**11.66.020 Medical marijuana program identification card - Initial application fee.**

Every person seeking to obtain a medical marijuana program identification card shall submit a completed initial application to the county health officer, or his or her designee, and at such time pay the required initial application fee, as established by the Board of Supervisors, and the California Department of Health Services, as provided for in Section 11362.755 of the Health and Safety Code. ~~The initial application fee is \$100,~~ except that Initial applicants that receive Medi-Cal benefits at the time of submission of their application shall pay ~~\$50~~ a reduced rate as required by law.

**SECTION 2.** Section 11.66.030 is hereby amended to read as follows:

**11.66.030 Medical marijuana program identification card - Renewal application fee.**

Every person seeking to renew his or her medical marijuana program

identification card shall submit a completed application for renewal to the county health officer, or his or her designee, and at such time pay the required renewal application fee, as established by the Board of Supervisors, and the California Department of Health Services as provided for in Section 11362.755 of the Health and Safety Code. ~~The renewal application fee is \$100, except that a~~ Applicants that receive Medi-Cal benefits at the time of submission of their renewal application shall pay \$50a reduced rate as required by law.

**SECTION 3.** Section 11.66.040 is hereby amended to read as follows:

**11.66.040 Medical marijuana program identification card - County application fee.**

The county health officer shall collect all application fees as required by the California Department of Health Services for each initial application and renewal application received. The county health officer shall charge an additional application fee, as established by the Board of Supervisors, for each initial application and renewal application received. This additional fee shall cover all costs incurred by the County of Los Angeles in administering the state's Medical Marijuana Program ~~pursuant to Division 10, Chapter 6, Article 2.5 of the Health and Safety Code.~~ The county's portion of the application fee shall be combined with the application fee required by the California Department of Health Services to create a single application fee and shall be collected from the applicant upon receipt of the completed application, ~~as set forth in Sections 11.66.020 and 11.66.030.~~